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79646 7590 07/23/2009 Weaver Austin Villeneuve & Sampson LLP - IGT Attn: IGT P.O. Box 70250 Oakland, CA 94612-0250				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/927,742

Applicant(s)

KAMINKOW, JOSEPH E.

Examiner

OMKAR A. DEODHAR

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-41, 43-57, 105 and 106 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-41, 43-57, 105 and 106 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 7/13/2009

Detailed Action

Non-Final Rejection

Response to Arguments & Amendment

Applicant's arguments have been considered but are moot in view of the new grounds of rejection. The claims have been amended to require "said loyalty program instrument different from said first loyalty program instrument." Applicant cited Paragraphs 69 & 72 of his disclosure in support of the amended limitation.

While Applicant's disclosure in Paragraph 69, "After each activity, a player may be issued 1) a new loyalty program instrument storing the loyalty points earned for the activity or 2) an existing loyalty program instrument may be updated to store additional loyalty points" surely provides support for the amendment, it bolsters Examiner's point that issuing a new loyalty program instrument OR updating an existing loyalty program instrument serves the exact same purpose of providing a player with an instrument indicating (or storing) his player tracking data. Paragraph 69 is viewed as disclosing the equivalence of these two embodiments.

Packes, taken alone, fails to disclose that the loyalty program instrument presented to the player is different from the first loyalty program instrument.

As explained in the past, the prior art is full of player tracking devices. Walker (previously relied on) teaches printing a receipt (Figure 3, receipt 328) as part of a loyalty program. Using Walker's receipt printer in conjunction with Packes' system provides for a second loyalty program instrument (a receipt) different from the first instrument (a player tracking card inputted by the player.) It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to provide Walker's receipt printer in Packes' system.

This yields the predictable results of permitting a player to instantaneously view the level of loyalty points accrued by looking at the printed receipt. Some players may prefer to receive printed receipts in lieu of a tracking card which must be inputted in a system to view loyalty data. Walker acknowledges the need for rewards with high perceived value. (Col. 2. Lines 43-46). Net, this modification yields highly predictable results & renders a system that performs exactly as one would expect it to.

Given Applicant's disclosure in Paragraph 69, disclosing the equivalence of using the same or different loyalty program instruments, it would have been a matter of obvious design choice to a person of ordinary skill in the art at the time of Applicant's invention to provide one embodiment over the other.

Finally, in the following discussion, Applicant's amendment is indicated by bold text for clarity.

Claim Objections

Claim 15 is objected to because of the following informalities: It contains the limitations, "a first loyalty program instrument" & "a loyalty program instrument". While Examiner does not believe this rises to the level of a claim rejection, the potential for confusion certainly exists. Examiner suggests Applicant consider amending "a loyalty program instrument" to read "a second loyalty program instrument" or "a different loyalty program instrument" to enhance the clarity of the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 15-22, 24-41, 43-46, 48-57 & 104-106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Packes (US Patent Number 6,319,122) in view of Walker (US 6,379,247).

Claims 15, 105:

Packes teaches:

A gaming machine configured for awarding loyalty points to patrons of a gaming establishment on a gaming apparatus, the computer-implemented method comprising:

(See Packes' Figure 6, Item 250: "Comp Points")

Regarding the following limitation:

receiving a first loyalty program instrument designed or configured to store an amount of loyalty points earned from a first activity not associated with the gaming apparatus;

(While Packes does teach punching data into a card so as to be optically readable, {See Packes, Col. 8. Lines 29-31}, Packes does not teach storing comp information directly on the loyalty instrument in a manner consistent with Applicant's invention. Applicant's Specification, Page 7, Lines 5-10 describes this in the form of a ticket issued by the gaming machine.

Applicant's Specification, Page 7, Lines 11-32 also describes storing comp information in a player tracking account. The two alternatives are viewed as performing equally well.

Walker provides for storing information directly on a printed receipt (See Walker, Item 328 in Figure 3.) This is evidence that storing information directly on a loyalty instrument was known in the art prior to Applicant's invention. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to store loyalty points directly on a loyalty instrument as taught by Walker's printed receipt in Packes' system. It would also have been a matter of obvious design choice to one of ordinary skill in the art at the time of Applicant's invention to store comp information directly on the card versus storing comp information in a player tracking account on a server. In either case, the modification yields the predictable results of conveying the number of loyalty points to the player.

Next, See Packes' Col. 12. Lines 4-10 - a player inserts his tracking card at a gaming machine or card table, earns comps, removes his card & subsequently enters his card at another gaming machine or table; thereby satisfying the claim limitation of "not associated with the gaming apparatus". See also Packes' Col. 9. Lines 39-45: teaching that a player earns comp points from playing one machine, inserts his card at a different machine, begins play & accumulates additional comp points. The first & second gaming machines are interpreted as not associated with each other.)

validating the first loyalty program instrument;

(See Packes' Figure 9A – Steps 900 through 904 - the card must be validated. If the card is accepted by the player tracking device, the card is validated.)

receiving activity data associated with an activity by the patron of said gaming establishment, determining based on the activity data that the patron has begun an activity for which loyalty points are to be accrued accruing the loyalty points, for the patron during the activity awarding to the patron some or all of the loyalty points accrued during the activity;

(See Packes' Figure 9A, Step 900 where a card is received. See Step 906 where the system stores a player identifier & start time. See Figure 10, Item 1014 – the bonus may be credited to the player's comp account. See also Col. 10. Lines 43-45).

combining the awarded loyalty points and the amount of loyalty points earned from the first activity; and

(Reward points accumulate each time the player plays a game. In this manner, points earned from playing a gaming machine are combined with points earned from previous plays.)

Regarding the amendment:

issuing to the patron a loyalty program instrument, said loyalty program instrument different from said first loyalty program instrument, designed or configured to store the combined loyalty points.

(Packes fails to disclose that the loyalty program instrument presented to the player is different from the first loyalty program instrument.

Packes' player tracking card is a loyalty program instrument. A player can redeem the accumulated points. See Packes' Col. 1. Lines 29-47; explaining several uses of loyalty points including redemption options.

Walker teaches printing a receipt (Walker, Figure 3, receipt 328) as part of a loyalty program. Using Walker's receipt printer in conjunction with Packes' system provides for a

second loyalty program instrument (a receipt) different from the first instrument (a player tracking card.) It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to provide Walker's receipt printer in Packes' system. This yields the predictable results of permitting a player to instantaneously view the level of loyalty points accrued by looking at the printed receipt. Some players may prefer to receive printed receipts in lieu of a tracking card which must be inputted in a system to view loyalty data. Walker acknowledges the need for rewards with high perceived value. (Col. 2. Lines 43-46). Net, this modification yields highly predictable results & renders a system that performs exactly as one would expect it to.

Since Examiner views Applicant's disclosure in Paragraph 69 as disclosing the equivalence of using the same or different loyalty program instruments (See the Response to Arguments, above), it would have been a matter of obvious design choice to a person of ordinary skill in the art at the time of Applicant's invention to provide one embodiment over the other.)

Claims 36, 106:

See the discussion of claims 15 & 105. A player may play multiple games at the same gaming machine & accumulate comp and/or bonus credits to his player account. Since the claims do not specify what the second gaming event data is, the data could be a game event such as a player resulting in a zero credit balance, ejecting his tracking card & leaving the machine. The second event could also be qualification for a bonus amount as in Packes' Figure 10, Step 1004.

Claim 16:

Packes teaches that the gaming establishment is a casino. (Abstract)

Claims 17, 21, 22:

A casino has a plurality of venues - i.e., a number of tables & gaming machines; affiliated with the establishment.

Claim 18:

Packes teaches using a gaming machine in a gaming establishment (the tables & machines are in a casino which is a gaming establishment.)

Claim 19, 49, 54:

Packes teaches blackjack & slots. These are games of chance. See Col. 3. Lines 27-29.

Claim 20:

Packes teaches that the activity for which a patron may receive player-tracking points is an entertainment purchase - i.e., gambling. Gambling is entertainment.

Claims 24, 28, 31-35, 37, 38, 40, 43:

Packes teaches that the loyalty points stored on the loyalty instrument are redeemable for comps. (See Packes' Col. 1. Lines 33-35). A player tracking account is also taught. See Figure 6 showing player identifier, comp points & bonus account balance. See also figure 2, Item 126 showing a magnetic card reader.

Claim 25, 50:

Packes teaches that the rate at which the patron accrues loyalty points varies according to the amount wagered. (See Packes, Col. 10. Lines 57-62)

Claim 39:

Packes teaches a wager to play. This is analogous to depositing indicia of credit into a gaming machine. See Figure 2, Item 144 "Currency Acceptor".

Claims 41, 48:

See Packes Figure 9B, Step 918 – the secondary event may be a determination of a losing outcome; the player may have zero credits left. Before this determination is made, at least one game is played.

Claim 44:

See Packes Figure 6, table 240 showing a player's account.

Claims 45, 46, 53, 55, 56:

Since Packes teaches player tracking & an electronic gaming machine with memory, processing transactions must take place using the machine's memory - and processor for that matter. Further, See Packes Figure 1, server 200 & the related description. Data, including player account information may be stored at the server; a networked gaming machine.

Claim 57:

See Packes, Figure 8 - There is a plurality of gaming machines from which the player is simultaneously accruing points. See Figure 10, Item 1002 – "Receive game play data from each gaming device." This explicitly teaches the claim limitation.

Claims 26, 27, 29, 51, 52 & 104:

Packes does not teach a player accruing points without inserting their card. Walker's Fig 10a, Steps 1016 & 1018 shows that player tracking points begin accruing without receiving player tracking information or a player tracking card from the player. In this case, a dealer presses a counter than increments frequent flyer miles. Walker's system also anonymously issues loyalty points (in the form of frequent flyer miles) without first receiving identification from the game player (Walker, column 8 lines 19-21).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to incorporate Walker's teaching of automatically awarding points without first requiring that a player inserts his card into a machine into the system of Packes. This is considered a substitution of known elements with the predictable results of awarding high spending players on a per-play basis without requiring them to register. (See Walker Col. 2. Lines 43-46).

Claim 30:

Packes in view of Walker teaches that the player is awarded frequent flyer miles without reference to the player account. (See Walker, Col 10, 23-33) Frequent flyer miles are interpreted as the claimed "goods" or "services".

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Packes (US Patent Number 6,319,122) in view of Walker (6,379,247) as applied to claim 22, in further view of Boushy (US Patent Number 5,761,647).

Claim 23:

Packes in view of Walker teaches the invention substantially as claimed. Packes does not teach communication between venues and the gaming establishment via the Internet.

Boushy teaches a national customer recognition system in which various gaming venues communicate with a gaming establishment via a Wide Area Network (102). The Internet is a well-known Wide Area Network. Linking several venues via a Wide Area Network allows players to accumulate points at affiliated casino properties. This encourages patrons to visit affiliated casinos as they travel about the world. This translates to higher profits within a family of casinos.

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have modified the invention suggested by Packes to include communication between venues and the gaming establishment via the Internet as suggested by Boushy in order to create a national customer recognition that allows players to accumulate points at affiliated casino properties thus encouraging patrons to visit affiliated casinos as they travel about the world and generating to higher profits within a family of casinos.

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Packes (US Patent Number 6,319,122) in view of Walker (6,379,247) as applied to claim 36, in further view of Kelly (US Patent Number 5,816,918).

Claim 47:

Packes in view of Walker teaches the invention substantially as claimed. Packes discloses comps may take many forms, but fails to teach the claimed prize menu. Kelly teaches a prize redemption system that displays a prize menu including one or more prizes redeemable for an amount of loyalty points. (Kelly, Fig 6, 334) The system then receives a prize selection selected from the prize menu. (Kelly, Figure 6, 336) If the patron has enough loyalty points for the selected prize, the system issues a loyalty program instrument used to redeem the selected prize. (Kelly, Figure 6, 337) It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have modified Packes' system to include a prize menu from which a player may choose a prize and issue a loyalty program instrument redeemable for that prize as suggested by Kelly in order to allow players to easily redeem goods & services while at the gaming machine.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMKAR A. DEODHAR whose telephone number is (571)272-1647. The examiner can normally be reached on M-F: 8AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/OAD/

/Corbett Coburn/
Primary Examiner
AU 3714